Minda Incorporated

King George Avenue, North Brighton, South Australia 5048

Response to the call for Submissions to Reponses to the Proposal for a National Disability Insurance Scheme

Quality and Safeguarding Framework

29 April 2015

Overview of Minda Incorporated

Established in 1898, Minda Incorporated (Minda) is a not-for-profit organisation with more than 115 years' experience in creating dynamic accommodation services for individuals with an intellectual disability. As demonstrated through our *Vision* - People with intellectual disability will live enriched lives of their choosing and *Mission* - To be a progressive organisation of choice for people living with intellectual disability, supporting them on their journey towards enriched lives with greater community participation and contribution.

Minda provides support to approximately 1,700 South Australians in the areas of accommodation, supported employment, lifestyle services and respite, with 540 people in supported accommodation and more than 60 community homes established throughout metropolitan Adelaide.

Minda has demonstrated capacity and capability of delivering services to people living with a disability and their families utilising a proactive, holistic, future-focused and most importantly, person centred approach. In order to achieve this, we have taken great strides to transform our service from a charity-based approach, to a rights-based approach. Beginning in 2009 with the adoption of the United Nations Convention on the Rights of Persons with Disabilities and a human rights framework, Minda has since then commenced the progressive implementation of Person Centred Thinking (PCT) in the planning and delivery of services.

The governance system of control and monitoring established by the Minda Board is administrated by the executive team led by the Chief Executive Officer, and supported by a strong senior management team and a broad range of employees. We are committed to delivering high quality services with the achievement and maintenance of quality accreditation certification becoming an increasing priority for Minda like other organisations within the disability services sector. Regulatory and contractual measures have also created further duties on organisations to be accredited against a range of standards and/or demonstrate performance against a range of key performance indicators. These activities have become critical to the sustainability of organisations such as Minda as funding opportunities are now directly linked to performance and against the achievement of accreditation certification. Additionally the achievement of quality accreditation certification is crucial when exploring business opportunities to remain competitive.

At Minda, we create an environment where people with intellectual disability can embrace and enjoy the experiences of life. We are committed to creating a dynamic environment where people can live lives of their choosing.

The development of this paper has been through the Minda Board - Human Rights Committee.

We thank you for giving us the opportunity to make this submission to contribute to the development of the NDIS Quality and Safeguarding Framework.

Questions Part 1.1 Structure of a National Quality and safeguarding Framework:

- *What are the most important features of an NDIS information system for participants?*
- How can the information system be designed to ensure accessibility?
- What would be the benefits and risks of enabling participants to share information, for example through online forums, consumer ratings of providers and other means?

Response by Minda:

- ✓ Capacity needs to be created for participants to share information and experiences in a selection / choices of ways including through groups supported by disability support organisations
- ✓ Information needs to be available to participants in a range of understandable, accessible formats including web based, video, pictorial and easy read
- ✓ Need to create capacity to obtain specific and/or local information by telephone or face-to-face
- ✓ Information needs to be developed for participants' families, carers, advocates and other supports. With the information being provided / available needs to be in culturally appropriate forms and in a variety of community languages including Indigenous languages
- ✓ Information sources need to be identified and utilised by NDIS such as local community organisations that have been identified as having credibility with their local communities
- ✓ Need to ensure that the information that is developed is by an independent and trusted source that has specialist knowledge on intellectual disability
- ✓ Information needs to be engaging or is available for individuals who will not be aware of the NDIS or seek support
- ✓ Need to have public availability of quality evaluation reports prepared under any provider registration requirements

Questions 2 & 3 Building Capacity and Preventative Domain:

- *Are there additional ways of building natural safeguards that the NDIS should be considering?*
- *What can be done to support people with a limited number of family and friends?*
- *What kind of support would providers need to deliver high-quality supports*

Response by Minda:

The methods articulated in the proposed framework to build natural safeguards all have merit, Minda provides further comment

- ✓ Individuals with intellectual disability generally need considerable support to develop their capacity to exercise choice and control. This requires skills development, supported decision-making, and opportunities for choice and control starting with routine decisions that arise through a the individuals day to day experiences, we suggest:
  - o Consideration be given to the variation or expansion to the Local Area Coordination described in the Proposal. It is important to ensure that the participants' supports are provided from a group of individuals they trust and so develop a process that ensures continuity of services. For example our model of service has a multi-disciplinary approach

to enhance the independent living skills of the individuals we support. Minda utilises the skills and resources of various professionals including: Psychologists, Social Workers, Occupational therapists, Physiotherapists, Speech pathologists. This multidisciplinary approach, combined with other external providers as needed, provides a comprehensive developmental model for the individuals in their home. These professionals work collaboratively in supporting the individual's specific needs as well as providing valuable guidance to support employees. Through this process we ensure that people living in our service have access to these professional services as appropriate to their needs, from its internal clinical and allied health service and from external, specialists as required. Care needs to be taken to not introduce another layer of workers that are not integrated into the support mechanisms for participants.

✓ Consider accredited support packages that have been developed specifically for people living with intellectual disability that have demonstrated skills and capacity building, including:

  o *Personal Power Workshops*: a training package that aims to educate the participants about abuse and staying safe and gives participants practical steps on how to act when they feel uncomfortable in different situations. The program teaches clients about their rights regarding personal safety and how to exercise them, and covers different types of abuse including, verbal, sexual, physical and financial. The workshop has three different levels which depend on the participant's level of understanding.

  o *'On My Way'* used to support the participants to develop the key skills needed when transitioning to their own home. Subjects covered could include, goal setting, household appliance and home safety, first aid, home maintenance and household duties, healthy lifestyle and eating, budgeting, shopping and cooking skills.

  o *Social skills and building self-esteem* aiming to provide participants with more confidence and a better understanding of how to meet others and maintain friendships.

  o As vulnerability in the community is often a concern for people living with intellectual disability this workshop would assist development of *safety skills*. The workshop has a focus on the safe use of public transport. Role playing and activities give participants the opportunity to practice their problem solving skills, with the aim of using these skills when independently accessing the community.

  o *Relationship building* workshops that the workshop covers topics including, rights and responsibilities, self-esteem, feelings and stress management, friendships and dating, and sexual health. Topics covered would aim to provide participants with a better understanding of what it means to be in a relationship and to manage personal expectations.

  o *Women and Men Personal Development programs* could be considered for participants to provide opportunity for women or men to join the respective gender group that come together to learn about their emotional health, beauty and fashion, good health, personal hygiene, nutrition and exercise.

✓ A key strategy to build capacity is Self-Advocacy maximising participants opportunities to make choices. Most importantly it builds the confidence and life skills to link in with their own local community and become a valued community member. The outcome is that each participant is better prepared to make his/her own choices on a whole range of lifestyle and health related matters including where they want to live, who they want to live with, their day placements or work placements. Minda has provided Self Advocacy Training to over 90 clients to date. Some milestones achieved by many of the self-advocates include voting in State and Federal elections as well as have the confidence to speak up about matters of concern to

them. Several of the Self Advocates have presented at conferences, or are representatives on Boards and Committees.

4. Questions - Corrective Domain

- *Should there be an independent oversight body for the NDIS?*
- *What functions and powers should an oversight body have?*

Response by Minda:

✓ A single national statutory independent oversight body is needed to bringing together the various key elements identified in the framework that require oversight including:
  - o complaints, monitoring and review, and identifying systemic problems including market failures
  - o community visitors
  - o monitoring of a mandatory quality evaluations scheme
  - o mandatory reporting of serious incidents
  - o decisions in relation to clearances or appropriateness of staff to work with people with disability
  - o restrictive practices – authorisation, monitoring and enhancement of practices of support providers and doctors
    In establishing this body there is a need to avoid duplications of work undertaken by other statutory bodies so that the system does not become over regulated that it becomes bogged down with multiple bodies undertaking the same work at the national and state and territory levels
    Provider training and information sharing.
✓ The body should have a branch in each state and territory and have a mandate for close consultation with people with disability, advocacy and representative bodies, and providers of support.

Part 2: Key elements of the Quality and Safeguarding Framework

5 Questions NDIA Provider registration:

- *Considering the options described, which option would provide the best assurance for:*
- *Providers? Participants?*
- *Should the approach to registration depend on the nature of the service?*
- *How can the right balance be reached between providing assurance and letting people make their own choices?*

Response by Minda:

✓ Option 4 provides the assurance process with rigor for both the providers and participants that ensures safe, minimum standard level to assure the participant, carers, families, advocates and funders.
✓ A national mandatory accreditation process is needed
✓ Providers should have to undertake independent quality evaluation that includes interviews with individuals and their carers, families, advocate. Establishing key performance indicators as part of the assurance evaluations process to assess the degree to which provider practices are provide input by participants and, where appropriate, their families or carers.

✓ Quality evaluation reports should be made public so as to assist participants to choose providers.

6 Questions Systems for handling complaints:

- *How important is it to have an NDIS complaints system that is independent from providers of supports?*
- *Should an NDIS complaints system apply only to disability-related supports funded by the NDIS, to all funded supports, or to all disability services regardless of whether they are funded by the NDIS?*
- *What powers should a complaints body have?*
- *Should there be community visitor schemes in the NDIS and, if so, what should their role be?*

Response by Minda:

✓ As with any service provision NDIS needs to have a feedback system to allow for review of practices. Feedback can highlight examples of good practice and complaints can identify areas for improvement. The process in turn supports ongoing development and improvement. The complaints system should be applicable to disability-related supports funded by the NDIS. However, an external and independent complaints body is also vital so as to provide a reasonable level of accountability for vulnerable individuals. This should take account of other statutory bodies in each jurisdiction that is already established to consider complaints by individuals to ensure there is a balance in relations to multiple bodies reviewing the same complaint.

✓ We agree with and support the Option 2 Internal and External complaints handling requirements in the proposed framework.   There are already existing statutory bodies within various jurisdictions that provide a further independent complaints mechanism.

✓ A community visitor scheme is a valuable approach to supporting and providing safeguards their role needs to be consistent across jurisdictions and consideration may need to be given that the role does not overlap with supports provided to participants by the participants' advocates.

Questions 7 Ensuring staff are safe to work with participants

- *Who should make the decision about whether employees are safe to work with people with disability?*
- *How much information about a person's history is required to ensure they are safe to work with people with disability?*
- *Of the options described above, which option, or combination of options, do you prefer?*

Response by Minda:

✓ Option 3 within the proposal provides the optimum safeguards.

✓ People with disability, particularly people with intellectual disability, are very vulnerable to neglect, abuse and exploitation. This ranges from the neglect inherent in a lack of meaningful activities through low-level, cumulative harassment and intimidation through to high level sexual and physical abuse. There is a range of evidence that people with intellectual disability suffer high levels of neglect, abuse and exploitation including in the often closed environments of support provision.   Therefore Providers of support should have the primary responsibility for selection and monitoring of staff.

✓ To facilitate this there needs to be external controls on who should be allowed to work in disability support.

- ✓ There should be mandatory reporting of allegations and reasonable suspicion of serious abuse and neglect as is a requirement by various professional bodies and health care providers that provide supports. This needs to include unexplained serious injury to a person with disability.
- ✓ The proposed quality assurance system should specifically focus on whether providers are taking action to minimise and appropriately respond to abuse, neglect and exploitation.
- ✓ Improved data on the incidence of abuse and neglect should be gathered through mandatory reporting.
- ✓ Employers should be required to obtain referee and police checks for all staff who will have direct contact with the individuals they support. Decisions should be based on a wide range of information as is in place in South Australia. The available information should include a centralised national database of findings of misconduct against individuals.

Questions 8 Safeguards for participants who manage their own plans

- *Should people who manage their own plans be able to choose unregistered providers of supports on an 'at your own risk' basis (Option 1) or does the NDIS have a duty of care to ensure that all providers are safe and competent?*
- *What kind of assistance would be most valuable for people wanting to manage their own supports?*

Response by Minda:

- ✓ The Productivity Commission recognised the benefit of self-management on the service system, anticipating that it would reduce the demand for formal service and cost less than other alternatives. However the system needs to take account of the vulnerability of the individuals and minimise the risk of exploitation. Therefore the NDIS has a duty of care to ensure that all providers are safe and competent.
- ✓ Taking account of input of the participants is fundamental therefore, the NDIS could consider providing a range of assistance and incentives for self-management that may include the use individual planning processes to facilitate a thorough risk minimisation and safeguards and ensure provision of clearly understood information to assist people to use self-managed options.

Questions 9 Restricting and eliminating restrictive practise in NDIS funded supports

- *Who should decide when restrictive practices can be used?*
- *What processes or systems might be needed to ensure decisions to use restrictive practices in a behaviour support plan are right for the person concerned?*
- *Are there safeguards that we should consider that have not been proposed in these options?*
- *For providers, what kind of support are you receiving now from state and territory departments that you think would be helpful if it was available under the NDIS?*

Response by Minda:

- ✓ Restraint of an individual in any way should be the last option considered.
- ✓ A restrictive practice should not be considered in the absence of person centred active support and a comprehensive positive behaviour support plan. The behaviour support plan should always be informed by the reasons for and function of the behaviour and provide support staff / service provider direction.
- ✓ Restrictive practices should only occur under authorisation from a senior qualified practitioner. However, a requirement for such approvals creates a workload that could not be met with any sort of quality in decision-making.

- ✓ Minda actively works towards eliminating Restrictive Practices (RP) or minimising RP for all client groups not just those supported by NDIS
- ✓ Prescription of psychotropic medication should be made by a doctor with specific competencies in the mental health of people with intellectual disability and as part of a collaborative decision-making approach with a behaviour support practitioner
- ✓ The NDIS should establish clear criteria for what professional qualifications and competencies are required to be a behaviour support practitioner and a workforce development plan to ensure that there is an adequate supply of practitioners. One of the required competencies should be in person centred active support.
- ✓ Individuals with complex challenging behaviour benefit from multidisciplinary collaboration
- ✓ Input of the individual, their family and carer, advocate is important to development of behaviour support plans.
- ✓ NDIS is relatively silent on restrictive practices and children with disabilities. The Framework needs to take account of and ensure controlled and monitored use of restrictive practices in family homes which we organisations little control over but our respite services (and other agencies' respite services) often get asked to do restrictive practices on children while they are in respite because that is what happens at home. Special schools are also "interesting" area to consider regarding restrictive practices that have not been considered in the Framework.
- ✓ Whatever professionals are prescribing restrictive practices need to be governed by an appropriate code of ethics and the values base of the Intellectual disability sector. It is unreasonable to ask someone with Cert III to be in a position to make such judgements. The same applies to the determination of consent. Psychologist don't always get it right either but they have the skills to make a good estimate and justify it.
- ✓ Finally it was noted that non-clinicians tend to get caught up in rigid thinking about the application of philosophy. PCT does not mean let any client do whatever they like irrespective of whether it is dangerous or illegal. Assumed capacity to consent does not mean you never ask about it and eliminating restrictive practices, while an admirable goal, is sometimes not achievable and must be balanced against risks like death and serious injury.
- ✓ We understand ID is the biggest consumer group using NDIS but the lack of representation of people with an ID or their advocates in the governance of NDIS.

Questions 9 Monitoring and Reporting

- *Would you support mandatory reporting on the use of restrictive practices ? Why / Why not?*
- *If you support mandatory reporting on the use of restrictive practices, what level of reporting do you believe should occur?*

Response by Minda:

- ✓ Minda supports establishment of a system for mandatory reporting of restrictive practices. The system should be overseen by a Senior Practitioner or equivalent with a skilled team of professionals who can collate and analyse the data and carry out audits and reviews of concerning trends in relation to particular providers or particular individuals.
- ✓ This system should extend to a capacity to require independent approval of restrictive practices for some individuals either by the Senior Practitioner or via a guardianship application.